6 November 2026

Commerce Commission
PO Box 2351
Wellington 6140

By email to: infrastructure.regulation@comcom.govt.nz

Dear Ben,

Submission on the draft decision to vary Firstlight Network's DPP4 quality standards

Electricity Networks Aotearoa (ENA) appreciates the opportunity to comment on the Commerce Commission's draft decision on Firstlight Network Limited's quality standards variation (QSV) application.

ENA is the industry membership body that represents the 28 electricity distribution businesses (EDBs) that take power from the national grid and deliver it to homes and businesses. Our members are listed in Appendix A.

EDBs employ over 7,800 people, deliver energy to more than 2.3 million homes and businesses, and have spent or invested $6.8 billion in network assets over the last five years. ENA harnesses members' collective expertise to promote safe, reliable, and affordable power for our members' customers.

Our interest in this consultation is principally the consistency, transparency and future application of the regulatory framework, rather than the specific quality-standard values proposed for Firstlight.

1. Overall position

ENA recognises the Commission's pragmatic and proportionate approach to Firstlight's circumstances ahead of Firstlight's integration with Powerco. We do not seek to challenge that case-specific outcome or endorse Firstlight's proposed alternative boundary value.

The decision nevertheless raises two questions of broader relevance: how the Commission treats an identified concern with the calibration of a quality parameter where an assessment year has already ended, and how it will ensure future variations are assessed through a consistent, evidence-based methodology rather than a presumption that earlier settings should be restored.

2. Treatment of the 2025/26 regulatory year

The Commission proposes not to amend the 2025/26 settings, referring to the importance of forward-looking quality incentives and avoiding retrospective adjustments. Those are legitimate considerations. However, the draft decision would benefit from a clearer distinction between retrospectively relaxing a performance obligation and correcting a measurement parameter that may not have been appropriately calibrated in the first place. Having accepted the second-year warrants adjustment, the only substantive distinction for the first assessment period is timing and neither the IMs nor the QSV provisions impose an application deadline.

Reliability performance in any given year reflects investment, maintenance and operational decisions made over an extended period, while decisions taken today will influence outcomes well beyond the current assessment period. The fact that a variation cannot alter decisions already made is therefore

not, by itself, a complete answer to whether an existing quality standard remains an appropriate measure of underlying network performance.

More generally, ENA considers that demonstrated historical non-compliance should not be a prerequisite for quality standard variation. Where credible engineering and statistical evidence demonstrate prospectively that an existing standard no longer reflects realistically achievable performance, an EDB should be able to seek a variation before repeated non-compliance occurs. Requiring an EDB to breach before the mechanism becomes practically available would reduce the prospective value of the QSV mechanism and may create inappropriate incentives for regulated suppliers.

In particular, ENA asks the Commission to explain in its final decision how it weighs the date of an application and the end of an assessment period against evidence about the appropriateness of the original settings, and what criteria would govern a similar application in future. The explanation should address the implications for regulatory certainty and incentives on both sides, including the risk that an incorrectly calibrated parameter remains in place solely because a regulatory year has ended.

ENA does not take a position on whether the 2025/26 settings should ultimately be varied in this case. Our request is for a sufficiently clear rationale that EDBs and consumers can understand how comparable circumstances would be treated in future.

3. Normalisation methodology and precedent

Exceptional weather events create a genuine challenge for quality regulation. Normalisation should support a meaningful assessment of underlying network performance without removing incentives to maintain and improve resilience or disregarding the consequences of outages for consumers. The distinction between major events and events sufficiently exceptional to distort a reference dataset therefore warrants careful, transparent treatment.

We recognise the Commission's concerns about selective event exclusions, consistency across related quality parameters and the increasing relevance of severe weather. Equally, a simple return to historical values is not necessarily an appropriate general solution where a statistical boundary or its reference dataset is found to be unsuitable. The interaction between boundaries, limits, targets, caps and incentives needs to be considered as a whole.

ENA considers that the Commission should distinguish between recent actual performance and realistically achievable performance. Recent performance is relevant evidence but should not mechanically determine the revised quality standard. The assessment should instead consider the performance reasonably achievable by a prudent and efficient EDB, having regard to its network characteristics, deliverability and other relevant circumstances.

In particular, there may be merit in distinguishing between major events that fall within the expected range of network operating conditions and genuinely catastrophic events that can disproportionately influence future boundary values. The Commission could consider whether the criteria already used for catastrophic-event reopeners provide a useful starting point for identifying such events, while recognising that the purpose and consequences of a reopener differ from those of quality-standard normalisation.

ENA therefore asks the Commission to make clear in the final decision reflects the particular circumstances of this QSV and does not establish a default remedy for future applications. Other cases may require a more direct assessment and recalculation of the relevant parameters, supported by evidence appropriate to the materiality of the issue. Additional guidance on how such assessments could or should be made would also be beneficial, where possible.

4. Future approach and requested clarification

This individual QSV need not resolve the wider methodology. However, the questions it raises could usefully inform the Commission's future work on quality standards, including the development of DPP5. Any review should be proportionate and engage with EDBs on practical application, data requirements and the treatment of increasingly severe events.

ENA considers that the assessment should maintain a clear connection between the price and quality components of the regulatory settlement. In determining realistically achievable performance, the Commission should have regard to the quality outcomes reasonably capable of being delivered from the expenditure provided for through the DPP, taking account of reasonable and efficient reprioritisation. This should not imply that an EDB must exhaust all theoretically available expenditure or defer other prudent investment before a QSV can be considered. Reprioritisation should be considered only where it is reasonable and efficient and would not compromise other prudent investment needs or consumer outcomes.

The Commission should also distinguish between temporary and enduring changes in realistically achievable performance. Where the evidence indicates that the reliability constraint is transitional, a staged or time-limited variation, with transparent review points and an appropriate improvement pathway, may better preserve incentives to improve reliability than permanently rebasing the standard to reflect temporary conditions. Conversely, where the change is shown to be enduring, the Commission should explain the evidence supporting an enduring reset.

In finalising this decision, ENA asks the Commission to:

- clarify the principles and criteria used to decide whether a quality measurement parameter may be corrected for a regulatory year that has ended;
- confirm that approach set out in the draft decision is a case-specific, pragmatic response rather than a general precedent for future QSVs; and
- identify an appropriate opportunity in future quality-standard work to consider consistent, evidence-based treatment of exceptional events and the interaction of related quality parameters.

ENA thanks the Commission for considering these comments. For any questions about this submission, please contact Gemma Pascall, Regulatory Manager ( ).

Yours sincerely

Gemma Pascall
Regulatory Manager

Appendix A: ENA Members

The lines companies represented by ENA are listed below.

- Alpine Energy
- Aurora Energy
- Buller Electricity
- Centralines
- Counties Energy
- EA Networks
- Electra
- Electricity Invercargill
- Firstlight Network – owned by Powerco
- Horizon Networks
- MainPower
- Marlborough Lines
- Network Tasman Limited
- Network Waitaki
- Northpower
- Orion New Zealand
- OtagoNet – represented by PowerNet
- Powerco
- Scanpower
- The Power Company – represented by PowerNet
- Top Energy
- The Lines Company
- Unison Networks
- Vector
- Waipa Networks
- WEL Networks
- Wellington Electricity
- Westpower